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5 **UNITED STATES DISTRICT COURT**

6 **DISTRICT OF NEVADA**

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8 ANTHONY BAILEY,

9 Plaintiff,

10 vs.

11 NEVADA PAROLE BOARD,

12 Defendant.

Case No. 2:22-cv-00306-GMN-VCF

ORDER

-And-

**REPORT AND RECOMMENDATION FOR
DISMISSAL**

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15 I previously granted incarcerated pro se plaintiff Anthony Bailey's application to proceed in
16 forma pauperis and dismissed his complaint without prejudice with leave to amend. ECF No. 3. I found
17 that plaintiff's civil rights complaint regarding his issues with the parole board "attack[ed] the fact or
18 duration of his custody pursuant to a criminal conviction or sentence must be brought by way of a
19 petition for a writ of habeas corpus." *Id.* at 4. I noted that he should, "file a habeas corpus petition and an
20 in forma pauperis application in a new action" *Id.* at 5. While I doubted that that he would be able to
21 articulate claims in this action, I noted that since it was, "possible that these deficiencies may be cured
22 through amendment." *Id.* I gave plaintiff thirty days to file an amended complaint and warned that,
23 "[f]ailure to timely file an amended complaint that addresses the deficiencies noted in this Order may
24 result in a recommendation that the dismissed claims be dismissed with prejudice." *Id.*
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1 I also noted in my order, “that plaintiff has filed dozens of duplicative actions in this Court. I
2 warn[ed] plaintiff that his behavior in this Court is bordering on vexatious.” *Id.* at 6. I cautioned,
3 “plaintiff that continuing to file duplicative and/or frivolous lawsuits may result in adverse
4 consequences, including possible sanctions or a finding that he is a vexatious litigant.” *Id.* at 7.

5 Plaintiff did not file an amended complaint or an objection to my order. Plaintiff did file a
6 “motion for clarification” which is difficult to read as it is written in sloppy cursive. ECF No. 4. Reading
7 his motion for clarification liberally, he appears to “clarify” to the Court that none of his past cases were
8 litigated vexatiously. *Id.* Since I dismissed plaintiff’s complaint based on the allegations in his complaint
9 and only warned plaintiff that vexatious litigation tactics would not be tolerated in this case, I deny
10 plaintiff’s motion regarding his clarification of his past and concurrent cases as unnecessary. Plaintiff
11 will not be prejudiced because he is free to file an objection to this order/report and recommendation to
12 Judge Navarro. For the reasons discussed in my order (ECF No. 3), plaintiff’s case should be dismissed.
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14 ACCORDINGLY,

15 I RECOMMEND that this action be DISMISSED and Judgment entered.

16 I ORDER that plaintiff’s motion for clarification (ECF No. 4) is DENIED.

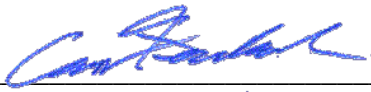
17 **NOTICE**

18 Pursuant to Local Rules IB 3-1 and IB 3-2, a party may object to orders and reports and
19 recommendations issued by the magistrate judge. Objections must be in writing and filed with the Clerk
20 of the Court within fourteen days. LR IB 3-1, 3-2. The Supreme Court has held that the courts of appeal
21 may determine that an appeal has been waived due to the failure to file objections within the specified
22 time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file
23 objections within the specified time and (2) failure to properly address and brief the objectionable issues
24 waives the right to appeal the District Court's order and/or appeal factual issues from the order of the
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1 District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch.*
2 *Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Pursuant to LR IA 3-1, the plaintiff must immediately file
3 written notification with the court of any change of address. The notification must include proof of
4 service upon each opposing party's attorney, or upon the opposing party if the party is unrepresented by
5 counsel. Failure to comply with this rule may result in dismissal of the action.

6 IT IS SO ORDERED.

7 DATED this 4th day of May 2022.

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9 CAM FERENBACH
10 UNITED STATES MAGISTRATE JUDGE
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